

Draft Program Decision Document 12-001
Remedial Measures Fund Account
April 25, 2012

The purpose of this Program Decision Document is to approve establishment of State Remedial Measures Fund Accounts. The Habitat Conservation Plan (HCP) requires the set aside of contingency funds to pay for implementing remedial measures in the event that changed circumstances affect program conservation measures (HCP, section 5.12.3). The amount of funding is set forth in Table 7-1 of the HCP, totaling \$13,270,000 (2003 dollars) to be paid from Year 6 through Year 25 of the program.

The nature of the contingency funds for remedial measures required by the HCP is such that the funds must be accumulated over time and retained until needed in the event a changed circumstance occurs. The LCR MSCP Parties desire to have the accumulated funds invested so that the value of the funds is not eroded over time by inflation.

The Funding and Management Agreement (FMA, Section 7.5.1) provides the ability for State Parties to establish interest bearing accounts for the deposit of funds contributed by the State Parties and made available to Reclamation for administration and implementation of the LCR MSCP.

Thirty days before quarterly contributions are due Reclamation will specify the amount of funding from the State's contribution that should be placed into each State's Remedial Measures Fund Account. The total yearly amounts will not exceed the yearly amount for remedial measures (adjusted for inflation) as specified in Table 7-1 of the HCP, unless otherwise approved by the Steering Committee. The amount requested for each State's Remedial Measures Fund Account will be in the same proportion as outlined in Section 8.3 of the FMA.

Interest earned on the Remedial Measures Fund Accounts will be added to the Accounts and available to Reclamation for the purpose of implementation of remedial measures under the Program, as provided below, up until one year prior to expiration of the Program.

The non-federal cost-share will be considered to have been paid in full after required quarterly funding for the Habitat Maintenance Fund and the Remedial Measures Fund Account has been set aside and required cash contributions are deposited into the State Accounts or paid to Reclamation.

If a changed circumstance occurs as identified in Table 5-13 of the HCP, Reclamation will follow the process outlined in Section 5.12.3 of the HCP and Sections 13.1 and 13.1.1 of the Implementing Agreement to implement remedial measures. Funding to implement the remedial measures will be requested from each State Remedial Measures Fund Account in the same proportion as outlined in Section 8.3 of the FMA. Reclamation may request interest amounts in the same proportions from each State Account, provided Reclamation first exhaust principal. In the event a State does not have sufficient interest amounts to meet the requested proportion,

Reclamation will consult with the State Parties prior to requesting interest earnings from any other State to determine an approach acceptable to the State Parties.

One year before the expiration of the LCR MSCP, all remaining principal funds in the Remedial Measures Fund Accounts will be distributed to Reclamation for LCR MSCP purposes as identified in the approved work plan and budget. Reclamation will include these funds in its final accounting pursuant to FMA Section 7.5.6, and shall distribute any unexpended portion of the funds pursuant to the FMA Section 7.5.7. Since the principal in the Remedial Measures Fund Accounts have already been accounted for in determining the 50/50 federal/non-federal cost-share, it will be utilized first before any additional funding contribution may be assessed. Any interest remaining in the State's Remedial Measures Fund Accounts will remain the property of the respective State Parties.

States will report the current balance of their Remedial Measures Funding Account to Reclamation, including earned interest, quarterly.